

STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of the Office of Financial and Insurance Services

In the matter of:

Premier Mortgage Funding, Inc.,

Enforcement Case No. 05-3851

License No.: FL-3150, SR-1150,

Respondent.

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CONSENT ORDER REQUIRING COMPLIANCE  
AND PAYMENT OF CIVIL FINES

Issued and Entered,  
This 19<sup>th</sup> day of March, 2007,  
By Richard D. Lavolette,  
Chief Deputy Commissioner

Based upon the Stipulation to Entry of Consent Order and the files and records of the Office of Financial and Insurance Services ("OFIS") in this matter, the Commissioner FINDS and CONCLUDES that:

1. The Commissioner has jurisdiction and authority to adopt and issue this Consent Order in this proceeding, pursuant to the Michigan Administrative Procedures Act of 1969 ("MAPA"), as amended, MCL 24.201 *et seq.*, the Mortgage Brokers, Lenders, and Servicers Licensing Act ("MBLSLA"), 1987 PA 173, as amended, MCL 445.1651 *et seq.*, and the Secondary Mortgage Loan Act ("SMLA"), 1981 PA 125, as amended, MCL 493.51 *et seq.*
2. All required notices have been issued in this case, and the notices and service thereof were appropriate and lawful in all respects.
3. Acceptance of the parties' Stipulation to Entry of Consent Order is reasonable and in the public interest.
4. All applicable provisions of MAPA have been met.
5. Premier Mortgage Funding, Inc. ("Respondent") violated MCL 445.1652(4), MCL

493.52(6), MCL 493.77(3), MCL 445.1659, MCL 493.63(2)-(3), MCL 445.1671(1), MCL 493.67(1), MCL 445.1672(a), MCL 445.1673(1), MCL 493.72(1)(c), and MCL 493.72(1).

NOW THEREFORE, based upon the parties' Stipulation to Entry of Consent Order and the facts surrounding this case, IT IS ORDERED THAT:

1. The Stipulation to Entry of Consent Order submitted by the parties to the Chief Deputy Commissioner is hereby ACCEPTED.

2. Respondent shall CEASE AND DESIST from violating MCL 445.1652(4), MCL 493.52(6), MCL 493.77(3), MCL 445.1659, MCL 493.63(2)-(3), MCL 445.1671(1), MCL 493.67(1), MCL 445.1672(a), MCL 445.1673(1), MCL 493.72(1)(c), and MCL 493.72(1).

3. Respondent shall pay to the OFIS, a civil fine in the amount of \$20,000.00. The civil fine shall be paid on or before 30 days from the date of entry of this Order.

4. Respondent agrees that within 120 days of the issuance and entry of the attached order, Respondent shall conduct and complete a review of its closed, withdrawn, and denied files for the period of October 5, 2003 to October 5, 2005, when Respondent ceased charging more than its actual cost for credit reports, and identify and make refunds to those consumers, including those referred to in paragraph 9.g. above, who were overcharged for credit reports. The refund amount to consumers shall be the difference between the charges imposed by Respondent and the actual expense incurred. Thereafter, the President of Respondent shall file with OFIS, within 30 days, a signed, written report containing the following information: 1) a statement that Respondent has completed the above review and refund process; 2) identification of the consumers to whom refunds have been made; and 3) a description of the nature of the overcharge and the amount refunded.

5. Respondent shall not utilize independent contractors, independent or loosely affiliated net branch offices, or unlicensed entities for residential mortgage loan origination unless they are: 1) licensed or registered under the MBLSLA and SMLA; 2) exempted from the MBLSLA under Section 25; or 3) licensed as a class I licensee under the Consumer Financial Services Act.

6. Respondent shall provide written notice to OFIS within 30 days of opening or closing



a branch office that will be conducting activity subject to the MBLSLA or the SMLA. The notice shall include the street address, business telephone number, and name of the branch manager of the branch that is being opened or closed.

7. Respondent shall review and comply with the OFIS Consumer Finance Bulletin No. 2003-09-CF, posted on the OFIS website, which clarifies OFIS' position on employees and branch offices in Michigan. Further, in operating its branch offices:

- a. Respondent shall be responsible for the operating expenses of each branch location. Operating expenses include, but are not limited to, salaries and wages, office equipment, office furniture, office rent, office administrative support staff, and other expenses necessary and incidental to the operation of a residential mortgage business.
- b. All contractual relationships with vendors providing goods and services necessary and incidental to operation of a residential mortgage branch office, such as office and equipment leases, telephonic and electronic communication services, utilities, and third party service providers, shall be between the Respondent and such vendor.
- c. Respondent shall maintain and store all branch office and employee records at Respondent's main office location, which shall be the address which appears on its license and registration certificates issued by OFIS.
- d. Respondent shall maintain a centralized loan log of each application that is taken by Respondent, including applications taken by its branch offices. Respondent shall store all closed, cancelled, withdrawn, and denied files in one central location. Respondent may maintain this log electronically and Respondent's branch offices may electronically upload the information required for the log to Respondent's main central location. Each quarter, Respondent will conduct an audit of an appropriate sample (including all branch offices) of closed and denied loan files and assure compliance with all relevant federal and state laws. Respondent shall maintain written reports of the results of its file reviews. The written reports shall be maintained as required by Section 21(2) of the MBLSLA.
- e. Respondent shall maintain one set of corporate books and records that shall reflect the business of Respondent, including activity at all branch office locations. Respondent shall not keep separate books and records for each branch office location.
- f. Respondent shall maintain and exercise ownership and control over all branch bank accounts, ensuring that a corporate officer of Respondent is a signatory on each account.

- g. Respondent shall provide training to, and exercise supervision and control over, each branch office location and the individual employees employed at each branch.
- h. Respondent shall accept responsibility and liability for the actions or omissions of each of its branch office employees for activity in relation to and within the scope of such employees' employment by Respondent.
- i. Respondent shall maintain one uniform settlement service fee structure that each of its Michigan branch office locations must follow.
- j. Respondent shall not pay all or a portion of an employee's or branch manager's compensation for residential mortgage origination or related activity to a company owned or controlled by the employee or branch manager.
- k. Respondent shall report all compensation paid to its employees at each branch office on an IRS Form W-2.

8. Within 90 days of the entry of this Order, Respondent shall develop and maintain a comprehensive written employee Policy and Procedures Manual clearly delineating the mortgage loan process and all statutes, ordinances, rules, and regulations that govern the activity of its branch offices and all employees.

9. Within 90 days of the entry of this Order, Respondent shall develop, implement, and maintain a comprehensive written Quality Control and Compliance Program. The Quality Control and Compliance Program shall include internal and external audits and, at a minimum, shall:

- a. Appoint a compliance officer with knowledge, authority, and accountability who will be responsible for administering Respondent's compliance program.
- b. Define the duties and responsibilities of the compliance officer.
- c. Allocate resources necessary to effectively implement and administer Respondent's compliance program.
- d. Require the compliance officer to make recurring written reports to Respondent's officers and directors.
- e. Take prospective corrective action on each violation and recommendation listed in the Report.



- f. Revise the written compliance policy and require annual revisions and approval of changes to the compliance policy.
- g. Develop compliance related policies for each regulation applicable to Respondent.
- h. Require the review and annual approval of compliance related policies.
- i. Implement an ongoing training program to ensure that all branch managers, loan officers, loan processors, and loan administrative staff receive training in all aspects of the brokering, originating, and closing of mortgage loans. The training program will include education on all applicable state and federal laws and regulations, including but not limited to, the Mortgage Brokers, Lenders, and Servicers Licensing Act; Secondary Mortgage Loan Act; Consumer Mortgage Protection Act; Mortgage Lending Practices Act; Real Estate Settlement Procedures Act; National Housing Act; Truth in Lending Act; Equal Credit Opportunity Act; Fair Credit Reporting Act; Home Mortgage Disclosure Act; and applicable usury laws.
- j. Require the compliance officer to prepare a schedule of requirements for each applicable consumer regulation (such as type and timing of disclosures), so that employees will be informed of the requirements that relate to their duties.

10. The Commissioner specifically retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as she shall deem just, necessary and appropriate in accordance with the provisions of the MBLSLA and SMLA. Failure to abide by the terms and conditions of the Stipulation to Entry of Consent Order and this Order, may result in the commencement of additional proceedings.

IT IS SO ORDERED.

  
Richard D. Lavolette  
Chief Deputy Commissioner